

STATE OF INDIANA)
)§:
COUNTY OF ALLEN)

IN THE ALLEN CIRCUIT COURT

CAUSE NO.:

02C01-16 05-PL-000234

KINDRA D. MUNCIE,)
)
Plaintiff,)
)
vs.)
)
TUTHILL TRANSFER)
FORT WAYNE,)
)
Defendant.)

FILED
CENTRAL SERVICES DIVISION
2016 MAY 13 PM 1:17
LESLIE A. BERGMANN
CLERK OF COURT
ALLEN COUNTY, INDIANA

COMPLAINT FOR DAMAGES AND JURY DEMAND

COMES NOW, the Plaintiff, Kindra D. Muncie, by counsel, Samuel L. Bolinger, and alleges again the Defendant, Tuthill Transfer Fort Wayne as follows:

1. The Plaintiff, Kindra D. Muncie, is an adult female resident of Fort Wayne, Allen County, Indiana, and at all times herein is an employee at Defendant, Tuthill Transfer Fort Wayne.
2. The Defendant, Tuthill Transfer Fort Wayne is a corporation authorized to do business in Fort Wayne, Indiana, by the State of Indiana, and does so at 8825 Aviation Drive, Fort Wayne, Allen County, Indiana 46809, and employs 300 or more employees in each calendar and proceeding year and is considered an employer under Title VII of the Civil Rights Act of 1964, as amended, and the Americans Disability Act, as amended and the Age in Discrimination in Employment Act, and is engaged in interstate commerce.
3. The Plaintiff, filed a charge of discrimination on July 9, 2015 with the Equal Employment Opportunity Commission ("EEOC") and Metro Human Relations Commission

CCSTM

(“METRO”), which a copy of said charge of discrimination is attached and incorporated hereinafter and made a part hereof and marked as Exhibit A.

4. The EEOC issued a Notice of Right to Sue on March 24, 2016, which a copy of said notice is attached and incorporated hereinafter and made a part hereof and marked as Exhibit B.
5. This complaint is timely filed.
6. This complaint alleges violation of Title VII, ADEA, ADAA, and retaliation.
7. In particular, Plaintiff alleges:
 - a. She is a qualified disabled individual;
 - b. She is forty-six (46) years of age (d.o.b. March 30, 1969);
 - c. She has worked for Defendant, Tuthill since January, 1990;
 - d. That Defendant has been aware that Plaintiff is disabled for several years;
 - e. That Defendant previously accommodated Plaintiff for one of her disabilities, but Plaintiff has been told unless she reveals more information about her disability she will no longer be accommodated;
 - f. Although, Defendant management has had a doctor’s note stating that Plaintiff may need extra breaks to use the restroom and eat snacks. Plaintiff has been written up for doing both.
 - g. Plaintiff further alleges that Craig King (“King”) has been harassing her due to her disability by giving her harder work assignments and taking away her work cart;
 - h. King knows that doing these things will cause Plaintiff’s disabilities to flare up and make work harder for Plaintiff;

- i. Members of Human Resources have also sent Plaintiff for unnecessary drug and alcohol tests;
- j. King has also been sexually harassing Plaintiff since he started working with the company;
- k. Plaintiff has had meetings with management about King's behavior, but it has not stopped.
- l. King stares at Plaintiff while she works and matches her every move. King is a supervisor, but is not Plaintiff's;
- m. Plaintiff alleges that her body is being picked apart by King's eyes, and everywhere she goes in the plant he is there;
- n. Plaintiff alleges that since she no longer has a work cart to put her materials in, Plaintiff has to bend over to the floor to pick things up and King routinely watches her do this;
- o. Previous to King, Plaintiff's supervisor was Paul. He sent Plaintiff sexual text messages and made comments to her such as "I like the way that shirt looks on you," "I like the way you hold the big one inch hose," "let me rub your feet and back for you," and "you really look good today." He would also brush up against Plaintiff's body while talking to her;
- p. Plaintiff reported the above described incidents/comments and many other things to Defendant management;
- q. Defendant management investigated and told Plaintiff that Paul no longer worked for the company;

- r. Plaintiff also alleges that she has been written up in an attempt to terminate her employment, so that Defendant can hire a younger employee;
- s. Additionally, Plaintiff alleges the previously mentioned write ups, constantly being called into the office and harassment are in retaliation for complaining of sexual harassment in September 2014;
- t. Plaintiff alleges that she has been discriminated against due to her age (46) in violation of Title VII as amended, and that the employer has also failed to accommodate Plaintiff for her disability and harassed her due to her disability in violation of ADAA of 2008.

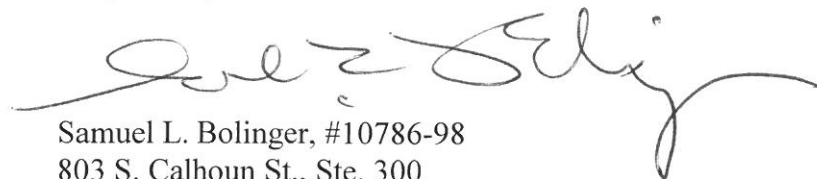
As a proximate result of the above described conduct by Defendant, Plaintiff's federally protected civil rights have been violated, subjecting her to injuries and damages in an amount yet to be determined.

WHEREFORE, Plaintiff seeks compensatory damages, reasonable attorney's fees, costs, punitive damages, and all other just and proper relief.

JURY DEMAND

Plaintiff moves the court for a trial by jury in this cause, pursuant to Indiana Trial Rule 38.

Respectfully submitted,



Samuel L. Bolinger, #10786-98
803 S. Calhoun St., Ste. 300
Fort Wayne, IN 46802
Tel: 260.407.0040
Fax: 260.407.0039

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☒ FEPA

EC-0150-A15

☒ EEOC

24D-2015-00373

City of Fort Wayne Metro Human Relations Commission

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Kindra D. Muncie

Home Phone (Incl. Area Code)

(260) 373-0925

Date of Birth

03-30-1969

Street Address

City, State and ZIP Code

1024 Tulip Tree Road, Fort Wayne, IN 46825

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

TUTHILL TRANSFER FT WAYNE

No. Employees, Members

Unknown

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

8825 Aviation Dr, Fort Wayne, IN 46809

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☒ AGE ☒ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

10-01-2014

07-09-2015



CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I am a qualified disabled, individual age forty six (46) who has worked for Tuthill since February of 1990. My employer has been aware that I am disabled for several years. I was previously being accommodated for one of my disabilities; but I have been told that unless I reveal more information about my disability I will no longer be accommodated. Although management has a doctor's note stating that I may need extra breaks to use the restroom and eat snacks, I have been written up for doing both.

I also feel that Craig King ("King") has been harassing me due to my disability by giving me harder work assignments and taking away my work cart. King knows that doing these things will cause my disabilities to flare up and make work harder for me. Members of human resources have also sent me for unnecessary drug and alcohol tests.

King has also been sexually harassing me since he started working with the company. I have had meetings

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Jul 09, 2015

Date

Kindra Muncie
 Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

EX. A

EEOC Form 1249

CHARGE OF DISCRIMINATION

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Charge Presented To:

Agency(ies) Charge No(s):

☒ FEPA

EC-0150-A15

☒ EEOC

24D-2015-00373

City of Fort Wayne Metro Human Relations Commission

and EEOC

State or local Agency, if any

with management about his behavior but it has not stopped. He stares at me while I work and watches my every move. I feel that my body is being picked apart by his eyes. Everywhere I go, he is there. Since I no longer have a work cart to put my materials in I have to bend over to the floor to pick things up. King routinely watches me as I do this.

Previous to King, my supervisor Paul sent me sexual text messages and make comments to me such as "I like the way that shirt looks on you," "I like the way you hold that big one inch hose," "let me rub your feet and back for you," and "you look real good today." When I would ask him a question he would respond with "Sorry, I didn't hear you from how good looking you are today." He would also brush up against my body while talking to him. I reported these things along with many others to management. Management investigated and I was told that Paul no longer worked for the company.

I also feel that I have been written up in an attempt to terminate my employment and so that Tuthill can hire a younger employee. In addition to that, I feel the previously mentioned write ups, constantly being called into the office and harassment are in retaliation for complaining of sexual harassment in September of 2014.

Because of these things, I feel I have been discriminated against due to my age, 46, in violation of the Age Discrimination in Employment Act of 1967, as amended. I also feel that I have been sexually harassed and retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended. I believe that my employer has also failed to accommodate my disability and harassed me due to my disability in violation of the Americans with Disabilities Act Amendments Act of 2008.

2015 JUL 20 A 8:35
EEOC INDIANAPOLIS
DISTRICT OFFICE
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Jul 09, 2015

Date

Kendra M. Munn
Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Kindra D. Muncie**
1024 Tulip Tree Road
Fort Wayne, IN 46825

From: **Indianapolis District Office**
101 West Ohio St
Suite 1900
Indianapolis, IN 46204



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

24D-2015-00373

Brien L. Shoemaker,
Enforcement Supervisor

(317) 226-6118

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Webster N. Smith,
Director

MAR 24 2016

(Date Mailed)

Enclosures(s)

CC:

Tuthill Transfer Systems
 c/o Ronald J. Hein
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 Chicago, IL 60606

Samuel L. Bolinger
SAMUEL L. BOLINGER ATTORNEY AT LAW
 803 South Calhoun Street, Suite 300
 Fort Wayne, IN 46802

EX. B